

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT CINCINNATI**

ERIC WILLIAMS,

Petitioner,

: Case No. 1:14-cv-235

- vs -

District Judge Susan J. Dlott
Magistrate Judge Michael R. Merz

BRIAN COOK, Warden,
Pickaway Correctional Institution,

:

Respondent.

ORDER ADOPTING REPORTS AND RECOMMENDATIONS

This habeas corpus case is before the Court on Petitioner's Objections (ECF Nos. 18, 23) to the Magistrate Judge's Report and Recommendations (ECF No. 16) and Supplemental Report and Recommendations (ECF No. 20).

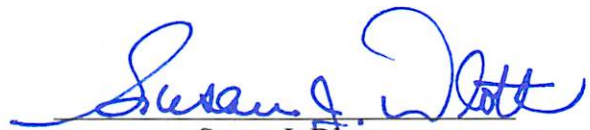
As required by 28 U.S.C. § 636(b)(1)(C) and Fed. R. Civ. P. 72(b)(3), the Court has reviewed the findings and conclusions of the Magistrate Judge and has considered de novo all of the filings in this case with particular attention to the issues as to which Petitioner has lodged objections. Having done so, the Court determines that the Magistrate Judge's recommendations should be adopted.

The gravamen of Petitioner's Objections is that Detective Perry's testimony to Williams' admissions of these sexual assaults on an infant is insufficient to prove guilt beyond a reasonable doubt. Ignoring the fact that this testimony is uncontradicted, Williams asserts Perry perjured himself or the prosecutor should have called other witnesses who were present when the admissions were made to corroborate Perry's testimony or Perry didn't explain why his recorder

didn't work for this particular statement **or** pointing out that Perry's testimony was uncontradicted somehow unconstitutionally shifts the burden of proof to Williams. The burden of proof of course always remains with the State, but pointing out that the prosecution's case is un rebutted on the key admission by a defendant does not shift the burden of proof. All of Williams' questions about Perry's testimony are reasonable, but they did not persuade the jury. Nor did they persuade the First District Court of Appeals that there was insufficient evidence. As the Reports point out, this federal habeas court is required to be deferential to both the jury's and the court of appeals' decisions on this question. *Tucker v. Palmer*, 541 F.3d 652 (6th Cir. 2008); *accord Davis v. Lafler*, 658 F.3d 525, 531 (6th Cir. 2011)(en banc).

Williams' Objections are OVERRULED and the Magistrate Judge's Reports and Recommendations are ADOPTED. The Petition herein is dismissed with prejudice. Because reasonable jurists would not disagree with this conclusion, Petitioner is denied a certificate of appealability and the Court hereby certifies to the Sixth Circuit that any appeal would be objectively frivolous and therefore should not be permitted to proceed *in forma pauperis*.

August 21, 2015.


Susan J. Diott
United States District Judge